

## THE CONCEPT OF PROFIT SHARING AGREEMENT IN LAND MANAGEMENT IN SEGARA KODANG, SESETAN VILLAGE, SOUTH DENPASAR DISTRICT, DENPASAR CITY

I Wayan Kartika Jaya UTAMA<sup>1</sup>, I Nyoman SUKANDIA<sup>2</sup>, Anak Agung Istri AGUNG<sup>3</sup>, Ida Ayu Permata Winditya DEWI<sup>4</sup>, I Putu Wira Dharma Putra YUDHA<sup>5</sup>

<sup>1,2,3,4,5</sup>Master of Notary Study Program, Postgraduate Faculty, Warmadewa University, Indonesia

Corresponding author: I Wayan Kartika Jaya Utama

E-mail: utama.kartikajaya@gmail.com

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### Abstract:

The importance of the meaning of soil for human life is because human life is utterly inseparable from the soil. They live on the land and obtain food by utilizing the land. The amount of land that can be controlled by humans can be reduced due to erosion, while the number of people who wish for land is constantly increasing. In answering legal problems, this research uses an empirical method. The people of Sesetan Village use customary Law passed down from generation to generation, carried out orally based on trust and agreement, and no deed is made from these legal acts. The implementation of the profit-sharing agreement can be carried out well with the existence of a trust system between the customary village institution and the community in maintaining the agreement as well as knowing and implementing their respective rights and obligations agreed upon at the time of making the agreement which aims to improve the economy of the community in the use of village land and especially the customary Village itself.

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## INTRODUCTION

The importance of the meaning of soil for human life is because human life is completely inseparable from the soil (Panjaitan & Nangi Kewa, 2023). Sesetan Village is one of six villages in South Denpasar District, Denpasar City, Bali Province, Indonesia. Its area reaches 7.39 km<sup>2</sup> (739 ha), and it is geographically located at an altitude of less than 500 meters above sea level that runs northwards; the area of this Village is divided into 12 hectares of rice fields, 30 hectares of tegal/huma, 458.01 hectares of housing and 238.99 hectares of others (Putra et al., 2021). People live on the land and obtain food by utilizing the land. They utilize the land's natural resources to meet the main demands of their livelihood, namely food, clothing, and board or primary needs. The amount of land that can be controlled by humans can be reduced due to erosion, while the number of people who wish for land is constantly increasing. In addition to the increasing number of people who need land for housing, economic, social, cultural, and technological progress and development also require the availability of many lands, for example, for plantations, livestock, factories, offices, and entertainment venues (Debora Pasaribu et al., 2021). Therefore, it is felt as if the land becomes narrow while the demand constantly increases, so it is not surprising that the value of land increases. The imbalance between the supply of land and the need for land has caused various problems.

To create a just and prosperous society, especially farmers and provide legal certainty regarding land rights for the entire people, government intervention is urgently needed to regulate land use and allocation policies. Land policy in laws and regulations is regulated in Law Number 5 of 1960 concerning the Law on Agrarian Principles (hereinafter referred to as UUPA). The policy of implementing the UUPA is centered on services for the community, especially the farmer group,



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which is the most significant part of the life of the Indonesian people. The UUPA is a vital tool to build a just and prosperous society.

One of the basic principles of agrarian Law is "Landreform." This principle in the provisions of the UUPA is regulated in Article 10, Paragraphs (1) and (2), which contains a principle, namely, that "agricultural land must be actively cultivated or cultivated by its owner whose implementation is regulated in laws and regulations". To implement this principle, it is necessary to have provisions on the minimum limit of the land area owned by farmers so they can live with a decent income sufficient for themselves and their families (Article 13 to Article 17 of the UUPA). It is necessary to regulate the provisions regarding the maximum limit of land ownership with property rights (Article 17 of the UUPA) by preventing the accumulation of land in certain groups only.

In order to protect economically weak farmers against the practices of strong people, which contain elements of "exploitation," the Indonesian government regulates the Profit Sharing Agreement in Law No. 2 of 1960 concerning Profit Sharing Agreement (from now on referred to as the PBH Law) which is the basis for justification, what is clear is that this phenomenon of rice field profit sharing only exists in the community where the agricultural sector still has an essential meaning in the supporting the economy of the community.

The purpose of issuing the PBH Law is to strive for the realization of a just and prosperous Indonesia and to improve the standard of living of cultivators, most of whom are economically weak. An agricultural land Revenue Sharing Agreement is an act of legal relationship regulated by Customary Law. A Profit Sharing Agreement is a form of agreement between a person who is entitled to a plot of agricultural land and another person called a cultivator, based on which agreement the cultivator is allowed to cultivate the land in question with the distribution of the proceeds between the cultivator and the person entitled to the land according to the balance that has been mutually agreed upon (Bawohan et al., 2021).

This profit-sharing agreement is not about the land that is the destination but about the work and results of the land, namely rice, and the workers who work on it. In contrast, the subject of the profit-sharing agreement is the landowner and cultivator (MAHMUD et al., 2024). So, the profit-sharing agreement carried out by rural communities is generally an agricultural land profit-sharing agreement that applies in the community, generally carried out orally and based on mutual trust in fellow community members.

Likewise, what happened to the people of Sesetan Village is still implemented with a land revenue sharing agreement. The profit-sharing agreement has been implemented for a long time and passed down from generation to generation. The profit-sharing agreement in Sesetan Village is based on trust and agreement between rice field owners and cultivators. Not all landowners are fair to the cultivators; there are still owners who are coercive to the cultivators because their position is weak here, and most of them have no other skills, so they have no other job options to meet their living needs. The content of the agreement includes the rights and obligations of each party, also determined by themselves, and the results of the land concession will later be divided according to the agreement that has been mutually agreed, generally with the distribution of half of the proceeds to the cultivators and the other half to the owners/customary villages. The deadline for the profit-sharing agreement that has been in effect so far also does not have a clear and firm benchmark, all based on mutual agreement, because the nature of the profit-sharing agreement in Sesetan Village, South Denpasar District, Denpasar City, is not just verbal.

## METHODS

In empirical juridical research, primary data is studied. This is based on the idea that this study analyzes the concept of Profit Sharing Agreement in Land Management in Segara Kodang Sesetan Village in asset development and access to reform to village asset management based on the philosophy of Tri Hita Karana which has the value of justice and aims to improve the welfare of the Balinese people through Village Empowerment in Bali in supporting the development of investment and tourism (Manuaba et al., 2023; Utama et al., 2021). The Problem Approach used in this study is sociological, juridical, statute, and conceptual approaches, as well as the data collection techniques used, namely field research techniques and literature research where the location of this research is located in Segara Kodang, Sesetan Village, South Denpasar District, Denpasar City (Dinata et al., 2023).

## RESULT AND DISCUSSION

**Factors For The Success Of The Land Sharing System For Salt Farmers In Segara Kodang, Sesetan Village, South Denpasar District, Denpasar City.** For the people of Indonesia, land occupies the most crucial position in daily life, especially for people living in rural areas, the majority of whom make a living as farmers and farmers (Hibar et al., 2023). So, the land, in this case, agricultural land, has a central role to depend on in daily life both for the cultivating farmers and the landlord farmers or the owners of the agricultural land themselves (Roha et al., 2016).

The situation of the people of Sesetan Traditional Village can be classified as the people are still thick with cooperation and strongly believe in Karmapala. This can be seen from the process of profit sharing agreement where the party who is able or the owner of agricultural land with the Indigenous Peoples in this case, is a cultivator who equalizes his position when carrying out the process of profit sharing agreement with mutual trust in the implementation of the agreement. A profit-sharing agreement is a form of agreement between the owner of agricultural land and the cultivator, based on an agreement where the cultivator is allowed to cultivate the land in question with the distribution of the proceeds between the cultivator and the person entitled to the land. This profit-sharing agreement has been regulated in the PBH Law, which the Law regulates land cultivation agreements with profit-sharing so that the distribution of land products is carried out on a fair basis and guarantees a proper legal position by affirming the rights and obligations of both cultivators and agricultural land owners (Sari, 2016).

One of the most basic components in the implementation of a profit-sharing agreement is the existence of legal rules that are used as the legal basis by the parties to the profit-sharing agreement (Rachman, 2022). In terms of regulations regarding agricultural land revenue sharing agreements in Indonesia, the PBH Law is still used. An agreement on the sharing of agricultural land occurs between the landowner and the person who cultivates the land, commonly referred to as a cultivator. The owner of this land can be a person or a legal entity based on a right to control land. In this profit-sharing agreement, the net is divided into gross proceeds after deducting costs for seeds, fertilizers, livestock and costs for planting and harvesting. However, labor costs are not included in this agricultural land revenue-sharing agreement.

This profit-sharing agreement is a reciprocal agreement with rights and obligations between the parties. The rights and obligations between agricultural land owners and cultivators are contained in Article 8 of the PBH Law. The article discusses what must be done and what is prohibited to be done during this profit-sharing agreement. The benefits of this profit-sharing agreement can not only meet material needs but can also increase solidarity among profit-sharing



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actors; besides that, the implementation of this agreement can improve the village economy. The owner of agricultural land himself feels that with this agreement, his agricultural land was initially not taken care of; with this agreement, the agricultural land becomes managed and can be used as it should.

In the implementation of the profit-sharing agreement, as stipulated in Article 3 of Law Number 1960 concerning the Profit Sharing Agreement, it is stated that the owner and cultivator themselves must make the profit-sharing agreement in writing in front of the Village Head and ratified by the Sub-district Head. Regarding the period of this profit-sharing agreement, it has been regulated in Article 4, which states that the profit-sharing agreement is held for the time stated in the agreement letter in Article 3, with the provision that for rice fields, the time is at least 3 (three) years and for dry land at least 5 (five) years. If there are still crops that cannot be harvested at the end of the agreement, then the agreement continues to apply until the crops are harvested, but the extension of time must be at least one year.

In this Profit Sharing Agreement Law, it is stated that only farmers are allowed to become cultivators. Including farm workers who cultivate themselves, and the maximum cultivation allowed in the agricultural land profit sharing agreement is only 3 (three) ha, this is done to prevent the possibility of excessive land control in the hands of one person, while for people or legal entities are not allowed to be cultivators of more than 3 (three) ha, unless there is permission from the Minister of Agrarian Affairs or officials appointed in Article 2 of the PBH Law.

This agricultural land revenue sharing agreement should be made in writing, carried out by the owner and cultivator in front of the Village Head and approved by the local sub-district head. This profit-sharing agreement is announced by the Village Head in a meeting with residents. An agreement in written form in the modern era is an appropriate handle that can be used as valid evidence. However, in making it, the participation of the Village Head as a protector of the community in the area is required. This is done so that the content of the profit-sharing agreement does not deviate from the existing rules and does not burden one of the parties, especially the cultivator, with deviant obligations (Wisesaningasih, 2018). Based on the results of the author's observations in the field, information was obtained that the profit-sharing agreement between the customary Village and the cultivating indigenous community in Segara Kodang, Sesetan Village, was carried out unwritten or based on the provisions of local customary Law. The agreement, carried out in writing by listing the rights and obligations of each party, is considered very standard because it is considered to be able to eliminate trust between agricultural land owners and cultivators with trust and adhere to the philosophy of Tri Hita Karana.

If the profit-sharing agreement has ended, the cultivator is obliged to return his land to the owner in the sense that the handover must not harm the landowner in the sense that when the cultivated land is returned, it is in a wholly damaged condition but unlike if it occurs due to a natural disaster, this can be considered force majeure, which is a force Majeure situation, which states that the situation is free to provide compensation to the owner of agricultural land. Legal effectiveness is the ability to create or give birth to a situation or situation that the Law desires or expects. A legal product will be said to be effective if the legal product has been carried out or implemented in practice, such as the PBH Law, which is also one of the legal products said to be effective if it has been implemented in practice (Yudho & Tjandrasari, 1987).

In simple terms, a system can be interpreted as a collection or set of organized, interacting, interdependent, and integrated elements, components, or variables. N. Gregory Mankiw mentioned that economics studies how society manages scarce resources. In running a business, a businessman needs to know about business economic theory; business economics is a field of applied economics



that studies financial, organizational, market-related, and environmental problems entrepreneurs face. The definition of business economics is a field of applied economics that aims to analyze business ventures based on economic theory and quantitative methods. Business economics is more focused on combining economic theory and quantitative approaches, so the analysis will later be used for the decision-making process when running a business (Yahya & Agunggunanto, 2012).

Business is an activity by individuals and organizations that creates value through products and services to obtain profits and meet the community's needs. According to L. R. Dicksee, business is a form of activity that aims to profit from those interested in the occurrence of the business activity. In managing agricultural land, an activity can be used as business land, namely through agricultural land revenue sharing agreement activities. Sustainability regarding agricultural land is the successful management of resources for agricultural businesses to help change human needs while maintaining or improving the quality of the environment and conserving natural resources. Sustainable agriculture is the implementation of the concept of sustainable development in the agricultural sector.

The theory of legal effectiveness, according to Soerjono Soekanto, is that the effectiveness of a law is determined by 5 (five) factors, namely (Huda et al., 2022)

Legal Factors, based on the theory of legal theory, are three kinds of things that can be distinguished regarding the application of Law as a rule. It is expressed as follows:

- a) Legal rules apply juridically if the determination is based on a higher level of rules or formed on a predetermined basis.
- b) Legal rules apply sociologically. If the rules are effective, it means that the authorities can enforce them even though they are not accepted by the community or because the rules apply because of community recognition.
- c) Legal rules apply philosophically, that is, in accordance with the ideals of the Law as a high positive value. Legal rules if studied in depth, in order for the Law to function, every legal rule must meet the elements of juridical, sociological and philosophical elements. The legal rules in the PBH Law, as explained above, must also meet the juridical, sociological and philosophical elements in order to be said to be functional.

Law Enforcement Factors, namely the parties who apply the Law. In the functioning of the Law, the mentality or personality of law enforcement officers plays an important role. If the Law is good but the quality of the officers is not good, there is a problem. Therefore, one of the keys to success in law enforcement is the mentality or personality of law enforcement. The function of law enforcement here is to socialize the existence of the PBH Law and participate in realizing its goals.

Factors of facilities or facilities that support law enforcement. Supporting facilities or facilities include software and hardware; one example of software is Education. The hardware problem, in this case, is the physical means that serve as a supporting factor. If these things are fulfilled, law enforcement can be enforced. In the research that has been conducted by researchers in Nagrak Village, Cianjur District, Cianjur Regency, it was found that there are no active farmer group organization facilities, agricultural activities in Nagrak Village, Cianjur District, Cianjur Regency are really carried out in a customary manner that has been carried out for a long time. This includes agreeing to share agricultural land without being guided by the PBH Law.

Community Factor, namely the environment in which the Law applies or is applied. Their awareness of compliance with Law and regulations is often called the degree of compliance. If it is known, public knowledge of the PBH Law can be made a measure of community compliance as one of the causal factors. In the research that has been carried out by interviewing 5 (five) farmers, it is found that all the interviewed farmers need to learn about the existence of the PBH Law.

Cultural factors are the result of works, creations and flavors based on karsa. In addition to social factors, cultural factors also have a massive function for humans and society, namely regulating them so that humans can understand how to act and determine their attitudes when dealing with others. Indonesia's culture is based on customary Law. The customary Law is a customary law that applies to most people in Indonesia. In addition, written laws in the form of laws arising from certain groups also apply; the laws and regulations must reflect the values that are the basis of customary Law so that the laws and regulations can be applied effectively (Soekanto, 2011).

The five factors above are interrelated because they are the essence of law enforcement and are also a benchmark of the effectiveness of law enforcement. Based on this, if it is associated with legal products to realize its goals, then the ineffectiveness of implementing the PBH Law. From the description above, it can be concluded that the implementation of the PBH Law in Sesetan Village has not been implemented because the provisions that must be fulfilled in the implementation of the agricultural land revenue sharing agreement have not been implemented in the implementation of the agricultural land revenue sharing agreement in Sesetan Village.

**The Value Of Justice To The Concept Of Agreement In Segara Kodang, Sesetan Village, South Denpasar District, Denpasar City.** The PBH Law was promulgated on January 7, 1960, and applied to the entire community. This Law aims to improve the fate of land cultivators owned by other parties; if it is implemented, according to Boedi Harsono, it will have the same effect as the implementation of the redistribution of excess absentee land to the income of the cultivators because, according to this Law, they will receive a larger share of their land products (Harsono, 2015). According to customary Law, the balance of revenue distribution is determined by the agreement of both parties, which is generally not favorable to the cultivator. This is because the land available for distribution is not balanced with the number of farmers who need arable land. In principle, every Law and regulation must be obeyed and implemented by every citizen.

The provisions of the PBH Law must be obeyed and implemented by the parties who make the agricultural land revenue sharing agreement. However, in practice, the provisions of the Law do not run as they should. In their implementation, the village community, especially the Sesetan Traditional Village, still refers to the provisions of local customary Law. Therefore, this agricultural revenue-sharing agreement needs internal and external guidance and supervision by the Village Government and Village Head. Supervision is all activities to determine and assess the reality of implementing tasks and activities. Internal supervision is supervision by officials within the government and the Village Head itself, while external supervision is carried out by officials outside the village government (Situmorang, 1994). The value of justice to the concept of agreement in Segara Kodang Village Sesetan by the Village community in implementing the profit-sharing agreement is:

- a) The habit of the community is to use customary law rules in a hereditary manner, which is flexible in the sense that the agreement can end at any time, and the form of the agreement is not written. This is one of the inhibiting factors in the implementation of the Agricultural Land Revenue Sharing Agreement Law, and the community is more accustomed to using customary Law, which he considers will add mutual trust between the two parties, namely agricultural land owners and cultivators.
- b) The education level of the Sesetan Village Community is medium, which is relatively high, so it is easy to be invited to learn something new, accept change, or participate in counseling. From the observation of research in the field, the main factor is that the form of agreement based on the PBH Law in Sesetan Village is due to the local community's culture. The community prioritizes the culture of helping in carrying out cultivation agreements through customary profit sharing, namely verbally with trust and agreement on the balance of the



distribution of the results. Such a culture is very attached to the local community, so if they cultivate rice fields with profit sharing based on the available laws, farmers are still afraid of becoming the subject of gossip for the surrounding community, especially cultivators who are still neighbors in one Village. The sense of cooperation, togetherness, and mutual help is still attached to the life pattern of the people of Sesetan Traditional Village.

- c) The Sesetan customary Village is chosen directly through the Paruman Indigenous Village Community. We often encounter Power and legitimacy concepts; the community, in general, knows the meaning of power, but most people cannot describe the meaning of power directly. Authority is also related to legitimacy, namely as the acceptance and recognition of the moral right of leaders to rule, make and implement political decisions. Legitimacy is always related to the community's attitude towards the leader's authority. Suppose the community accepts and recognizes the moral right of leaders to make and implement decisions that bind the community. In that case, it can be interpreted that the authority exercised by the leader gains the legitimacy of the community (Surbakti, 1992).

When viewed from the authority of the Village Head contained in Article 26 Paragraph (2) of Law Number 6 of 2014 concerning Villages, several authorities have been implemented in Sesetan Village Village, South Denpasar District, including:

- a) Lead the implementation of the Village Government.
- b) Appointing and dismissing village officials.
- c) Holding the power to manage the finances and assets of the Village.
- d) Determine the Village revenue and expenditure budget.
- e) Fostering the life of the Village Community.
- f) Building a source of income for the Village.
- g) Developing the socio-cultural life of the village community.
- h) Fostering order and peace in the village community.
- i) Representing the Village inside and outside the court or appointing a legal representative is done according to the provisions of laws and regulations.
- j) Fostering and improving the village economy and integrating to achieve a productive scale economy for the greatest prosperity of the village community.

Based on the provisions in Article 26 paragraph (2) of Law Number 6 of 2014 concerning Villages, it can be known that the Village Head has many authorities in carrying out his duties. One of the authorities of the Village Head is to supervise and protect the community; this supervision aims to see whether the activities that are Based on the provisions in Article 26 paragraph (2) of Law Number 6 of 2014 concerning Villages can be known that the Village Head in carrying out his duties has a lot of authority. One of the Village Head authorities is to supervise and protect the community; this supervision aims to see whether the activities carried out are in accordance with the benchmarks set previously (Muchsan, 1992).

Rural development is a very important issue to be considered and implemented jointly between the government and the community because it is undeniable that compared to development that takes place in urban areas, development in rural areas is still lagging, especially in developing countries, including Indonesia. One of the aspects that also determine the pace of development that takes place in the countryside is the need for synergy between the government as the driver and determinant of development policies in the Village and the community on the other hand because without the government as a policymaker and resource owner, or without real participation from the community in development, the implementation of development in the



Village will certainly experience obstacles and will not run according to expectations (Maemunah, 2018).

The role of the Village Head in the implementation of the village government since the reform is required to improve public services to be better than the previous methods. The Village Head realizes the responsibility to serve the community or public services in carrying out his duties and functions formally and is mandatory or a necessity for a Village Head to serve the interests of the community. The obligation of public service by the Village Head is formally and legally carried out in accordance with the applicable laws and regulations to fulfill the common desire in the regulation and structuring of the interests of individuals or groups of village communities to build a better life is the goal of public service (Potabuga, 2015).

Community participation is very important because the community knows what they want and what problems they face. For this reason, the community is not only an object but also the community as a subject that must be involved in development activities, starting from planning, implementing, and accepting the results to the maintenance stage of the results (Numan, 2013). The responsibility of a village head in public service is mandatory based on mutual agreement in accordance with the political contract that occurred at the time of the campaign, that the elected village head has promised to be willing to serve the interests of the village community as best as possible. Political promises must be proven to be realized through the role of the Village Head in public services, seen from the fulfillment of the interests of villagers in the fields of economy, society, religion, security and order, transportation, communication facilities and the environment. The success of the Village Head is measured by whether or not there is a form of performance that improves the welfare of the people, and the village head is always ready and present to serve the problems that are being faced by the people and whatever their wishes.

### CONCLUSION

Based on the explanation above, it can be concluded that the profit-sharing agreement in Sesetan Village in the Segara Kodang area is still based on community customs, namely orally, on the basis of mutual trust based on a philosophical belief in Tri Hita Karana, which can be said to be effective. In addition to being aware of the role of law enforcement, the lack of public knowledge about the existence of the PBH Law is the cause of the effective implementation of the PBH Law in Sesetan Traditional Village, South Denpasar District. The value of justice in the effective factor of the implementation of the profit-sharing system for salt farming management in Segara Kodang in its implementation is based on the value of a community belief and a belief based on the philosophy of life of the community in Bali, namely Tri hita Karana which upholds the value of honesty in the implementation of an agreement in the consideration of karmapala in a commitment carried out by the indigenous people to the customary Law itself.

Apart from this conclusion, the author can also give advice; namely, in the current legal development, it would be better if an agreement made in land management could be made into a written agreement based on a trust that aims to provide a sense of comfort and at the same time legal protection in the form of an agreement document. Cultural values and the beliefs of Indigenous peoples in law enforcement must continue to be improved in moral aspects that can lead to the life of the Law in the community, which provides the value of justice in the philosophy of life of the Indigenous people.





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